

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
4

5 ROBERT LINZY BELLON,

6 Petitioner,

7 v.

8 WARDEN BRIAN WILLIAMS, *et al.*,

9 Respondents.
10

Case No. 3:19-cv-00118-RCJ-WGC

**ORDER DENYING MOTION FOR
LEAVE TO PROCEED *IN FORMA*
PAUPERIS ON APPEAL
(ECF NO. 23)**

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12 This action is a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241,
13 by Robert Linzy Bellon, a Nevada prisoner. In an order entered on December 20, 2019
14 (ECF No. 20), the Court granted the respondents' motion to dismiss (ECF No. 15), and
15 dismissed this action, and judgment was entered accordingly (ECF No. 21). Bellon filed
16 a notice of appeal on December 31, 2019 (ECF No. 22)

17 On December 31, 2019, Bellon also filed a motion for leave to proceed *in forma*
18 *pauperis* on appeal (ECF No. 23). Bellon did not proceed *in forma pauperis* in this
19 Court; rather, he paid the filing fee for this action (ECF No. 1). The Court will deny
20 Bellon's motion and will certify that his appeal is not taken in good faith.

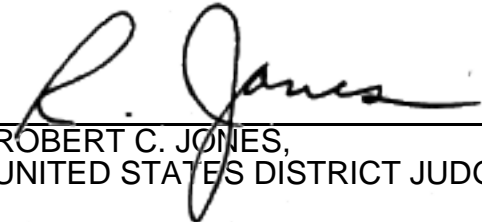
21 28 U.S.C. § 1915(a)(3) provides that "[a]n appeal may not be taken in forma
22 pauperis if the trial court certifies in writing that it is not taken in good faith." The good
23 faith standard is an objective one, the question being whether the petitioner seeks
24 review of any issue that is "not frivolous." See *Coppedge v. United States*, 369 U.S.
25 438, 445 (1962); *Gardner v. Pogue*, 558 F.2d 548, 551 (9th Cir. 1977). For purposes of
26 section 1915, an appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke*
27 *v. Williams*, 490 U.S. 319, 324–25 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1225 (9th
28 Cir. 1984). Here, the Court can discern no non-frivolous ground for Bellon's appeal. The

1 grounds upon which the Court granted Respondents' motion to dismiss and dismissed
2 this action were beyond any reasonable debate. The Court will, therefore, certify that
3 Bellon's appeal is not taken in good faith, within the meaning of 28 U.S.C. § 1915(a)(3),
4 and will, accordingly, deny Bellon's motion for leave to proceed *in forma pauperis* on
5 appeal.

6 **IT IS THEREFORE ORDERED** that the Court certifies that the appeal in this
7 action is not taken in good faith, within the meaning of 28 U.S.C. § 1915(a)(3).

8 **IT IS FURTHER ORDERED** that Petitioner's Motion for Leave to Appeal *in*
9 *Forma Pauperis* (ECF No. 23) is **DENIED**.

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11 DATED THIS 19th day of February, 2020.

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14 ROBERT C. JONES,
15 UNITED STATES DISTRICT JUDGE
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